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REVISED ESTIMATES

FINANCING OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991

Report of the Secretary-General as requested by the General Assembly in resolution 47/235

Addendum

I. INTRODUCTION

1. This report presents revisions to the initial estimates submitted in respect of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, contained in document A/C.5/48/44. It should be read in conjunction with the report on the initial estimates. The General Assembly considered the initial estimates at the first part of its forty-eighth session. That report had been submitted in response to General Assembly resolution 47/235 of 14 September 1993, in which the Assembly requested the Secretary-General to present, during the forty-eighth session of the Assembly, detailed cost estimates for the Tribunal for the biennium 1994-1995.

2. At the time of the preparation of the report of the Secretary-General, a number of issues remained to be finalized and decisions relating to the operation and administration of the Tribunal remained outstanding. The Security Council had agreed that the seat of the Tribunal would be at The Hague, but decided that the final determination should be subject to the conclusion of appropriate arrangements between the United Nations and the Government of the Netherlands. In this context, several issues remained unclear, including what provision would be required for a courtroom and detention facilities before and

during trials and imprisonment. In addition, as most senior officials of the Tribunal were not on board, administrative arrangements and budgetary proposals for the Tribunal were necessarily made on a provisional basis.

3. In the absence of precise information, a number of specific assumptions were made in relation to the preparation of the estimates contained in the report of the Secretary-General (A/C.5/48/44). In this connection, no resources were provided, in the report, for verbatim records, as their provision was dependent upon a decision by the judges relating to the Rules of Procedure and Evidence of the Tribunal, which at that time had not been adopted. Furthermore, when the estimates were prepared it was not clear when a courtroom and detention cells would be required and it was in any case assumed that it would not be before 1995. As a result, no provision was made for requirements for court and detention facilities or for the operating costs of detention facilities, but it was recognized in the report that such requirements, should they arise, would have to be addressed by the Assembly at its forty-ninth session. On the basis of the specific assumptions made about the scale and phasing of the activities of the Tribunal, the Secretary-General estimated that resources in the amount of $33,200,000 would be required in the biennium 1994-1995. Included in the proposals was a provision for the establishment of 108 posts. The Assembly, in its decision 48/461 of 23 December 1993, endorsed the recommendations of the Advisory Committee on Administrative and Budgetary Questions contained in paragraphs 8 and 9 of its report (A/48/765) and authorized the Secretary-General to enter into commitments not exceeding $5.6 million for the first six months of 1994, pending a final decision on the mode of financing the Tribunal and without prejudice to recommendations that the Advisory Committee may make to the Assembly and the decisions that the Assembly may take thereon with regard to administrative matters, including the location of the Court, the levels and numbers of staff and the conditions of service of the judges and staff.

4. In view of the timetable estimated for the activities and operations of the Tribunal, a number of assumptions were made that must now be revised in the light of the limited experience gained since the Tribunal began its operations. Related revisions to the initial estimates are outlined below.

II. RECENT DEVELOPMENTS

5. The Tribunal held its inaugural session from 17 to 30 November 1993 at The Hague. During the inaugural session, the Tribunal primarily discussed the main aspects to be covered by the rules of procedure and guidelines for the drafting of the rules. The Rules of Procedure and Evidence were subsequently adopted by the Tribunal at its second session, held from 17 January to 11 February 1994. An editorial group composed of three judges met from 7 to 11 March 1994 to work on the concordance of the English and French texts. The next session of the Tribunal, scheduled to be held from 25 April to 6 May 1994, will discuss issues relating to the internal functioning of the Tribunal, the servicing of the Chambers by the Registrar and the modalities for organizing and holding trials.

6. With regard to the appointment of staff, the Prosecutor designated by the Security Council declined the appointment and the Security Council is now searching for a replacement. In the interim, the Acting Deputy Prosecutor was

appointed and subsequently took office on 15 February 1994. The immediate plans of the Prosecutor's Office are the following: (a) to assemble and recruit staff; (b) to transfer the database of the Commission of Experts established pursuant to Security Council resolution 780 (1992), together with the reports and original holdings of the Commission, to The Hague; (c) to take over the Commission's investigations; (d) to invite Governments to forward all information they may hold relating to crimes committed in the former Yugoslavia since 1991; (e) to establish contacts with the United Nations Protection Force (UNPROFOR) with a view to continuing the investigative work of the Commission; and (f) to prepare cases to be brought before the Tribunal.

7. With regard to the administration of the Tribunal, the Acting Registrar commenced duties on 25 January 1994. In addition, two legal officers, one computer operations officer, five General Service staff and a contingent of security officers have been temporarily assigned from Headquarters. Basic furniture and equipment have also been secured. The appointments of Chief of Administration and administrative officers for finance and personnel are in the process of being finalized. In addition, the Secretariat was informed of the decision of the judges that verbatim records would not be a required element in conference servicing of the Tribunal.

8. As indicated in paragraph 3 above, the proposals contained in the report of the Secretary-General (A/C.5/48/44) were prepared on the assumption that a courtroom and detention facilities would not be required before 1995. It is now anticipated that trials may in fact begin some time in the latter part of 1994. In the light of this information, discussions were held with representatives of the Government of the Netherlands and with the owners of the Aegon building, which currently houses the offices of the Tribunal. These discussions dealt with issues related to the construction, financing and maintenance of a courtroom and holding cells in the Aegon building and detention cells in a Dutch prison at or near The Hague, as well as the determination of the number of cells likely to be required.

9. On the basis of these discussions and a review of other requirements by the Acting Registrar, based on the operations of the Tribunal so far, the initial estimates of the cost of the Tribunal in 1994-1995 were revised as set out below.

III. REVISED FINANCIAL REQUIREMENTS FOR THE TRIBUNAL IN 1994-1995

A. The Registry

Temporary assistance for meetings

10. As indicated in paragraph 8 above, it is anticipated that trials may begin in 1994. In this regard, provision is proposed for conference-servicing staff (28 Professional and 28 General Service staff) for the period commencing September 1994 through 1995. As noted above, it will not be necessary to provide full verbatim records. Accordingly, on the basis of previous estimates,

an additional amount of $869,200 will be required under temporary assistance for meetings to cover the proceedings of the Tribunal in 1994-1995.

B. Programme support services

Rental and maintenance of premises

11. In view of time constraints in making arrangements for the permanent seat of the Tribunal, interim arrangements were made for the holding of its inaugural meeting on 17 November 1993. Efforts have continued, however, to identify appropriate office space bearing in mind the proposed staffing component of the Tribunal. The Aegon building at The Hague is deemed to be the most suitable facility available. The west wing of the building appears to be suitable to accommodate the Tribunal's office space, although that part of the building lacks space for a trial chamber. In this connection, the possibility of constructing a trial chamber in another part of the Aegon building was considered.

12. On the basis of discussions with the owners of the Aegon building and representatives of the Government of the Netherlands, plans have been formulated to convert part of the first floor of the Aegon building into a courtroom. This construction would also include additional structural modifications to the interior of the Aegon building (partitions in the west wing of the building as well as the construction and/or installation of holding cells). The owners of the building are willing to finance this construction up to the amount of 3,500,000 Netherlands guilders ($1,891,900) and recover this investment through a surcharge on the basic rent over the period of the lease. In addition, the Government of the Netherlands will provide 2,750,000 Netherlands guilders ($1,486,500) to provide for external security for the Tribunal.

13. As a result of recent developments, as outlined above, an offer has been made that, were the United Nations to enter into a four-year lease (with the option of a four-year extension) for premises in the Aegon building, the proposed provisional basic rental cost for 5,797 square metres of space would be $642,100 per year for 1994-1995. The rent would be subject to annual adjustment on the basis of movements in the consumer price index maintained by the Central Bureau of Statistics of the Netherlands. The host Government has indicated its willingness to absorb the rental costs until 30 June 1994 and to make alterations to the outside of the building that would be necessary for security purposes and wheel-chair accessibility. Under such an arrangement, resources of $1,827,100 (including rental surcharge of $863,900) would be required for the rental costs of the Aegon building until 31 December 1995. This compares with the initial estimate of $885,300.

14. As indicated in paragraph 2 above, at the time of the preparation of the report of the Secretary-General (A/C.5/48/44), several issues remained unclear, including the provision of detention facilities. Upon further discussion, the Government agreed to provide for the construction of 24 detention cells in a penitentiary institution at The Hague. Negotiations are proceeding on the basis that the cells will be available to the Tribunal on a rental basis over the initial period of four years. The rental cost would be $37.10 per cell,

per day. In addition, costs of $27.20 would be charged per day per person for food, heat, electricity, clothing and laundry, medical and dental care and access to the prison hospital, and all technical and administrative overhead costs. Based on the assumption that, as of 1 September 1994, an average of nine cells would be occupied each day for the remainder of the biennium, the total rental cost of the detention facilities for 1994-1995 would be $552,500.

15. Accordingly, additional resources of $1,721,700 would be required for rental costs of the Tribunal for the biennium 1994-1995. Included in the rental costs of the Tribunal are additional resources for the provision of underground parking space ($15,500) which will be used to build a car-lock entrance for secure entry and exit of detainees. In addition to rental cost, it is estimated that an additional $105,600 would be required for the cost of utilities.

Miscellaneous services

16. It is estimated that provision would be required to cover the cost of handling and detaining the accused in the detention facility at The Hague. According to official Netherlands standards, a total of 31 security guards would be required to supervise the operation of 12 detention cells on a shift basis at a yearly cost of $1,010,900. An additional 15 guards would be needed to supplement the roster when the detention facilities are fully utilized and a further provision might therefore be needed at a later stage. Accordingly, additional requirements of $1,347,900 are proposed under miscellaneous services for the provision of services relating to the detention facilities in use for the duration of the Tribunal's operations in 1994-1995.

C. Other cost factors

17. A reduction in requirements under temporary posts ($4,600,900) compared to initial estimates is attributable to delays in recruitment of staff.

IV. VOLUNTARY CONTRIBUTIONS

18. The trust fund for the International Tribunal has so far received contributions of $1,002,000. The estimates presented in the present report represent a minimum core funding to permit the Tribunal to launch and sustain its activities during 1994-1995. As further experience is gained, it may well be necessary to increase these estimates or fund expanded activities, wholly or in part, from voluntary contributions. Accordingly, it is currently intended to use voluntary contributions for specific projects supplementing the work of the Tribunal as currently provided for. These might include the establishment of a library (complete with services), the establishment and organization of a computerized archiving system and resources necessary for the funding of forensic services to the Prosecutor. It is also envisaged that these voluntary contributions might be used for the establishment and administration of the Victims and Witnesses Unit which is conceived in the Rules of Procedure and Evidence of the Tribunal, but not currently provided for in 1994-1995. The unit would consist of qualified staff, consisting of a panel of counsellors and psychologists, to facilitate the investigations and prosecution of crimes, in

particular rape and sexual assault, and to recommend protective measures for victims and witnesses and provide counselling and support for them. In the longer run, when the Tribunal has become fully operational, these sorts of activities could be anticipated better and budgeted for, and voluntary contributions would be used to offset requirements to be met from assessed resources.

V. SUMMARY

19. On the basis of the assumptions described above, it is estimated that resources in the amount of $32,642,700 would be required in the biennium 1994-1995. These requirements are summarized in the annexes to the present report. Annex I provides details of the proposed resources and annex II contains the proposed staffing table of the Tribunal for the biennium 1994-1995.

20. Furthermore, an additional $5,683,200 would be required for staff assessment, to be offset by income from staff assessment of the same amount.

21. These estimates reflect the current assessment of minimum requirements for the functioning of the Tribunal in 1994-1995. It should be recalled, however, that the Tribunal has only been established very recently and, as more experience is gained, it may be necessary to reassess these requirements. Accordingly, the Secretary-General will submit revised estimates for 1994-1995 to the General Assembly at its forty-ninth session, should this prove necessary.

VI. ACTION REQUIRED

22. In its consideration of the financing of the Tribunal, the General Assembly will need to consider a number of issues in connection with the Tribunal. In this regard, decisions will be needed (a) to indicate its agreement to The Hague as the seat of the Tribunal; (b) to approve resources for the Tribunal for the biennium 1994-1995; (c) to determine the mode of financing for the Tribunal and approve related appropriations and; (d) to determine the conditions of service of the members of the Tribunal. In respect of the last point, the report of the Secretary-General is contained in document A/C.5/48/36.

Annex I

REQUIREMENTS IN 1994-1995

(Thousands of United States dollars)

	Initial estimates (A/C.5/48/44)	Proposed changes	Revised estimates
A. Chambers			
Salaries and allowances of judges	3 238.8	-	3 238.8
Common costs (judges)	531.2	-	531.2
Travel on official business	21.2	-	21.2
Experts/consultants	50.0	-	50.0
Temporary posts	598.8	(348.9)	249.9
Total A	4 440.0	(348.9)	4 091.1
B. Office of the Prosecutor			
Temporary posts	11 146.9	(3 232.6)	7 914.3
General temporary assistance	115.5	-	115.5
Overtime	43.0	-	43.0
Experts/consultants	100.0	-	100.0
Travel of witnesses	244.4	-	244.4
Travel of staff	107.9	-	107.9
Data-processing services	60.0	-	60.0
Total B	11 817.7	(3 232.6)	8 585.1
C. Registry			
Temporary posts	4 736.1	(1 019.4)	3 716.7
Temporary assistance for meetings	4 453.0	869.2	5 322.2
General temporary assistance	1 487.7	-	1 487.7
Overtime	46.5	-	46.5
Personal service contracts	282.3	-	282.3
Travel of staff	21.2	-	21.2
Hospitality	10.0	-	10.0
Total C	11 036.8	(150.2)	10 886.6
D. Defence Counsel			
General temporary assistance	1 400.9	-	1 400.9
Travel of accused	50.0	-	50.0
Total D	1 450.9	-	1 450.9

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	Initial estimates (A/C.5/48/44)	Proposed changes	Revised estimates
E. Programme support			
Contractual translation	105.7	-	105.7
Contractual interpretation	147.9	-	147.9
External printing	352.8	-	352.8
Rental and maintenance of premises	885.3	1 721.7	2 607.0
Utilities	134.1	105.6	239.7
Rental and maintenance of equipment	173.2	-	173.2
Communications	261.0	-	261.0
Miscellaneous services	21.2	1 347.1	1 368.3
Supplies and materials	264.0	-	264.0
Furniture and fixtures	546.9	-	546.9
Data-processing equipment	877.9	-	877.9
Conference-servicing equipment	177.4	-	177.4
Public information equipment	292.0	-	292.0
Vehicles	215.2	-	215.2
Total E	4 454.6	3 174.4	7 629.0
Grand total (A, B, C, D and E)	33 200.0	(557.3)	32 642.7

Annex II

PROPOSED STAFFING STRUCTURE OF THE TRIBUNAL FOR 1994-1995

	USG	ASG	D-2	D-1	P-5	P-4	P-3	P-2	Total	General Service	Security Service	Total	Grand total
1. Chambers a/	-	-	-	-	-	-	-	-	-	6	-	6	6
2. Prosecutor	1	-	1	2	11	13	10	8	46	21	-	21	67
3. Registry b/	-	1	-	-	4	4	2	-	11	12	12	24	35
4. Defence Counsel	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	1	1	1	2	15	17	12	8	57	39	12	51	108

a/ Excluding 11 judges.

b/ Excluding 28 Professional and 28 General Service conference-servicing posts proposed under temporary assistance for meetings for September 1994 through December 1995.